

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WILLIAM LANTANASIO )  
Petitioner, )  
vs. ) C.A. No. 05-197 ERIE  
JEFFREY BEARD )  
Respondent. )

RULE AND ORDER

AND NOW, this 11th day of August, 2005, after Petitioner presented a petition for a writ of habeas corpus and paid the filing fee,

IT IS ORDERED that the Report and Recommendation issued June 27, 2005 be VACATED and the motion for leave to proceed in forma pauperis be DISMISSED AS MOOT.

IT IS ORDERED that the United States Marshal shall make service of this order, together with a copy of the petition, upon the Respondent, the District Attorney of Erie County, and the Attorney General of the Commonwealth of Pennsylvania.

IT IS FURTHER ORDERED that within twenty days of service of this order, the respondent, and the District Attorney of Erie County, Pennsylvania shall respond to the allegations of the petition for writ of habeas corpus. The District Attorney shall address all of the following 1) the statute of limitations, 28 U.S.C. § 2254(d)(1)-(2); 2) the exhaustion of state court remedies as required by 28 U.S.C. §§ 2254(b) and Picard v. Connor, 404 U.S. 270 (1971); Rose v. Lundy, 455 U.S. 509 (1982); United States ex. rel. Trantino v. Hatrack, 563 F.2d 86 (3d Cir. 1977); Zicarelli v. Gray, 543 F.2d 466 (3d Cir. 1976), with respect to each claim raised by the Petitioner and, if appropriate, whether any of the claims were procedurally defaulted, and 3) the merits of the petition. The answer shall comply with Rule 5 of the Rules Governing Section 2254 cases in the United States District Courts. The District Attorney shall furnish this court with the state court records, including all transcripts, all briefs filed by the Petitioner, and all written

opinions of the state courts/agencies as well as certified copies of the docket sheets of all the state courts/agencies involved.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

S/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
Chief United States Magistrate Judge

cc: William Lantanasio  
SCI Waymart  
Waymart PA 18472  
  
District Attorney of Erie County  
  
Attorney General of Pennsylvania